

THE HONOURABLE SRI JUSTICE N.V.RAMANA

Writ Petition No. 22557 of 1996

Dated: 12.12. 2006

Between:

Chinnasetty Satyanarayana.

.....PETITIONER

AND

The District Collector,
Khammam, Khammam dist and ors

....RESPONDENTS

THE HONOURABLE SRI JUSTICE N.V.RAMANA

W.P. No. 22557 of 1996

ORDER:

This writ petition is filed questioning the action of the respondents in not paying the minimum scale of pay to the petitioner.

The petitioner claims that he was appointed as daily wage watchman on 25.2.1990 and continuing as such till date. He alleges that he is being paid a sum of Rs.700/- per month only, which is far below the minimum scale of pay. He states that similarly placed persons, appointed much later to him, are being paid more salary than what is being paid to him. He thus prays for directions to the respondents to pay him minimum time scale of pay.

A counter affidavit is filed by the respondents denying the averments made in the writ petition. The averment of the petitioner that he was appointed as Watchman is specifically denied. It is stated that the Sarpanch of the Grampanchayat has engaged the petitioner during the absence of a Watchman and that no appointment order was issued to the petitioner. It is also stated that the petitioner has not completed five years of service, and in terms of G.O. Ms. No. 212 F&P, dated 22.4.1994, he is not eligible for regularisation of his services. It is stated that the services of the petitioner were utilized on contract basis, and that his services were not utilized on full time basis, and as such, he is being paid Rs. 800/- per month in terms of the permission accorded by the second respondent, vide proceedings No.P3/775/95, dated 10.6.1995. It is

further stated that the petitioner cannot be continued as Watchman in view of the instructions issued by the Government vide Memo No.102191/Esst-IV/88-1 dated 9.1.1989, whereunder the Gram Panchayats were instructed not to appoint N.M.Rs.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the 3rd respondent-Gram Panchayat.

The petitioner, except seeking minimum time scale of pay, has not sought the relief of regularization. Unless the services of the petitioner are regularized, he cannot be granted the relief of minimum time scale of pay. Though the petitioner contends that similarly placed employees, appointed much subsequent to him, are being paid more salary than the petitioner, the same is disputed by the respondents, and it is contended by them that the petitioner was engaged only on part-time basis and not on full-time basis, and as such, he is being paid less pay. It is their further contention that in view of the orders issued by the Government in Memo No.102191/Esst-IV/88-1, dated 09.01.1989, the petitioner cannot be continued as Watchman. Since the entitlement of the petitioner for time scale of pay, is dependent on regularization of his services, which issue involves disputed questions of fact, this Court in exercise of its jurisdiction under Article 226 of the Constitution of India, cannot adjudicate the same effectively, and having regard to the judgment of the apex Court in “**Steel Authority of India Ltd. v. National Union Water Front Workers** [1](#)” the remedy of the petitioner, if any, is to approach the appropriate authority under the

Industrial Disputes Act, 1947.

Hence, the writ petition is disposed of granting liberty to the petitioner to avail the remedies available to him before the authorities under the Industrial Disputes Act, 1948 for redressal of his grievance. No costs.

N.V.RAMANA,J
DATE: 12.12.2006
Grk/TVK

¹ 2001 (6) ALD 1 (SC)